

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LUCKY BRAND DUNGAREES, INC.,  
LIZ CLAIBORNE, INC.,

Plaintiffs,

vs.

ALLY APPAREL RESOURCES LLC d/b/a  
GET LUCKY, KEY APPAREL  
RESOURCES, LTD., MARCEL FASHION  
GROUP, INC., and EZRA MIZRACHI,

Defendants.

Civil Action No. 05 CV 6757 (LTS) (MHD)

ECF CASE

**SECOND AMENDED JOINT PRE-TRIAL STATEMENT**

Pursuant to Fed. R. Cir. P. 16 and 26, the Local Rules for the Southern District of New York, and this Court's Pre-Trial Scheduling Order dated April 6, 2009, Plaintiffs Lucky Brand Dungarees, Inc. and Liz Claiborne, Inc. (collectively referred to as "Lucky Brand" or "Plaintiffs") and Defendants, Ally Apparel Resources LLC d/b/a Get Lucky, Key Apparel Resources, Ltd., Marcel Fashion Group, Inc., and Ezra Mizrachi (collectively referred to as "Marcel" or "Defendants"), jointly file this Second Amended Pre-Trial Statement:

**a. A concise statement of the legal issues to be decided.**

**Plaintiffs' Statement:**

1. Whether Defendants' actions constitute trademark infringement in violation of 15 U.S.C. § 1114.
2. Whether Defendants' actions constitute federal unfair competition in violation of 15 U.S.C. § 1125(a).

3. Whether Defendants' actions constitute federal trademark dilution in violation of 15 U.S.C. § 1125(c).
4. Whether Defendants' actions are in violation of N.Y.G.B.L. § 360(1).
5. Whether Defendants' actions are in violation of N.Y.G.B.L. § 349.
6. Whether Defendants' actions constitute common law trademark infringement.
7. Whether Defendants' actions constitute common law unfair competition.

Defendants' Statement:

1. Whether Marcel has superior, prior rights to use the GET LUCKY mark on the apparel at issue in this case.
2. Defendants' remedies for Lucky Brand's established breaches of the Settlement Agreement from its use of GET LUCKY.
3. Defendants' remedies for Lucky Brand's established trademark infringement in violation of 15 U.S.C. § 1114 for its use of GET LUCKY, including but not limited to disgorgement of profits and corrective advertising.
4. Defendants' remedies for Lucky Brand's established federal unfair competition in violation of 15 U.S.C. § 1125(a) for its use of GET LUCKY, including but not limited to disgorgement of profits and corrective advertising.
5. Defendants' remedies for Lucky Brand's established violation of N.Y.G.B.L. § 349 for its use of GET LUCKY, including but not limited to treble damages and attorneys fees.
6. Defendants' remedies for Lucky Brand's established liability for common law unfair competition, including but not limited to punitive damages.
7. Whether Lucky Brand's admission that it infringed Marcel's federal trademark, GET LUCKY, by selling men's and women's t-shirts and women's long sleeved shirts bearing

the GET LUCKY mark, and the resulting order granting summary judgment to Marcel, precludes Lucky Brand from arguing that Marcel violated Lucky Brand's trademark rights on men's and women's t-shirts and women's long sleeved shirts.

8. Whether Lucky Brand's admission that it infringed Marcel's federal trademark, GET LUCKY, by selling men's and women's t-shirts and women's long sleeved shirts bearing the GET LUCKY mark, and the resulting order granting summary judgment to Marcel, precludes Lucky Brand's claim that Marcel abandoned the GET LUCKY trademark.

9. Whether this Court's issuance of an injunction against Lucky Brand's use of GET LUCKY on or in connection with men's and women's apparel, fragrances and accessories establishes Marcel's superior rights in these categories.

10. Whether Lucky Brand's use of GET LUCKY constitutes counterfeit use under 15 U.S.C. §§ 1114(a) & (b), 1116(d), 1117(b)-(c) & 1127.

11. Whether Lucky Brand's use of GET LUCKY is in violation of N.Y.G.B.L. § 360(1).

12. Whether Lucky Brand's use of LUCKY, LUCKY BRAND or any mark incorporating the word "Lucky" breaches the Settlement Agreement.

13. Whether Lucky Brand's use of LUCKY, LUCKY BRAND or any mark incorporating the word "Lucky" constitutes trademark infringement in violation of 15 U.S.C. § 1114.

14. Whether Lucky Brand's use of LUCKY, LUCKY BRAND or any mark incorporating the word "Lucky" constitutes federal unfair competition in violation of 15 U.S.C. §1125(a).

15. Whether Lucky Brand's use of LUCKY, LUCKY BRAND or any mark

incorporating the word “Lucky” is in violation of N.Y.G.B.L. § 360(1).

16. Whether Lucky Brand’s use of LUCKY, LUCKY BRAND or any mark incorporating the word “Lucky” is in violation of N.Y.G.B.L. § 349.

17. Whether Lucky Brand’s use of LUCKY, LUCKY BRAND or any mark incorporating the word “Lucky” constitutes common law trademark infringement.

18. Whether Lucky Brand’s use of LUCKY, LUCKY BRAND or any mark incorporating the word “Lucky” constitutes common law unfair competition.

19. Whether Lucky Brand’s conduct constitutes inevitable confusion.

20. Whether the Settlement Agreement and Lucky Brand’s dismissal of its opposition of Marcel’s GET LUCKY trademark registration precludes Lucky Brand’s claims.

21. Whether Lucky Brand’s claims are estopped by virtue of laches, acquiescence, collateral estoppel, res judicata, judicial estoppel or any other basis for estoppel.

22. Whether Lucky Brand’s claims are barred by the doctrine of assumption of the risk.

23. Whether Lucky Brand’s claims are barred by the doctrine of unclean hands, particularly its unauthorized and unjustified continued use of GET LUCKY in the face of its contractual and legal undertakings to refrain from using GET LUCKY.

24. Whether Marcel and Ally Apparel are entitled to an award of all lost profits based on Lucky Brand’s sales of merchandise on which Lucky Brand used GET LUCKY, LUCKY, LUCKY BRAND or other marks incorporating “Lucky.”

25. Whether Marcel is entitled to a disgorgement of profits from Lucky Brand based on Lucky Brand’s sales of merchandise on which Lucky Brand used GET LUCKY, LUCKY, LUCKY BRAND or other marks incorporating “Lucky.”

26. Whether Marcel is entitled to a reasonable royalty on all sales by Lucky Brand of merchandise on which Lucky Brand used GET LUCKY, LUCKY, LUCKY BRAND or other marks incorporating "Lucky."

27. Whether any award for lost profits, disgorgement of profits or reasonable royalty should be increased or enhanced up to three times pursuant to 1117(a).

28. Whether Marcel is entitled to punitive damages based on Lucky Brand's violations of state common law and/or statutory law as asserted.

29. Whether Marcel is entitled to statutory damages up to \$2,000,000 based on Lucky Brand's use of a counterfeit trademark pursuant to 35 U.S.C. 1117(b).

30. Whether Marcel is entitled to reasonable attorneys' fees under Section 1117.

31. Whether Marcel is entitled to an injunction against Lucky Brand enjoining Lucky Brand from selling merchandise using GET LUCKY, LUCKY, LUCKY BRAND or any other mark incorporating Lucky.

32. Whether Ezra Mizrachi is a proper party to this litigation and whether the court has jurisdiction over Mr. Mizrachi.

**b. A concise statement of the material facts not in dispute.**

The parties agree to the following undisputed facts:

1. Lucky Brand is a manufacturer and marketer of jeanswear and sportswear in addition to apparel accessories, fragrances and toiletries.

2. Lucky Brand was established in 1991.

3. In February 1985, Marcel launched a line of clothing products under the GET LUCKY mark.

4. Marcel has at times displayed the GET LUCKY mark on the exterior of its

garments.

5. Marcel's Red Hat Society catalogue was targeted to that specific organization.  
6. Marcel has participated in apparel-related trade shows.  
7. On March 15, 1985, Marcel filed a trademark application for the GET LUCKY trademark with the United States Patent and Trademark Office ("USPTO") claiming a first use date of January 1985.

8. This application was allowed and proceeded to registration on January 7, 1986, under U.S. Trademark Registration No. 1,377,345.

9. This registration lapsed in 1992.  
10. Marcel filed a trademark application on April 13, 1998 for the GET LUCKY trademark. This application identified a date of first use of 1985 and issued on September 23, 2003 as U.S. Trademark Registration No. 2,765,974.

11. In December 1998 Lucky Brand sent Marcel a letter regarding the use of the GET LUCKY mark.

12. After receiving this letter, Mizrachi contacted the Lucky Brand attorney who sent the December 1998 letter.

13. On June 8, 2000, Lucky Brand filed an opposition to Marcel's 1998 GET LUCKY application.

14. On or about September 9, 2001, Marcel filed a lawsuit against Lucky Brand and Liz Claiborne (in the United States District Court for the Southern District of Florida).

15. That lawsuit was settled pursuant to a 2003 Settlement Agreement.

16. As part of the 2003 Settlement, Lucky Brand agreed to withdraw, and did withdraw, with prejudice its opposition to Marcel's second trademark application for GET

LUCKY.

17. In the spring of 2004, Marcel licensed Ally to use the GET LUCKY trademark.

18. Later, in the spring of 2005, Marcel entered into a license agreement with Apsco Enterprises Inc.

19. Ally participated in apparel-related trade shows.

20. On July 27, 2005, Lucky Brand filed the present action and a motion for preliminary injunction.

21. In an Order dated August 23, 2005, this Court denied Lucky Brand's motion for a preliminary injunction.

22. This Court's denial of Lucky Brand's motion for a preliminary injunction was affirmed by the Second Circuit on October 5, 2006.

c. **A witness list containing the names, addresses and a brief summary of the testimony of each witness each party will call. A person not identified on this list may not be called during a party's case in chief.**

Plaintiffs' Witnesses.

1. Barry Perlman, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400. Mr. Perlman is the co-founder of Lucky Brand and is expected to testify regarding the Plaintiffs' trademarks at issue, the allegations of the pleadings, and the history and use of the Lucky Brand brand.

2. Gene Bolmarcich, Esq., Liz Claiborne, Inc. 1 Claiborne Avenue, North Bergen, New Jersey 07407, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify on Plaintiffs' use and promotion of the Lucky Brand trademark, and Lucky Brand's trademark registrations.

3. Erich Joachimsthaler, Vivaldi Partners, 125 Park Avenue, Suite 1500, New York, New York 10017, (212) 965-0900. Dr. Joachimsthaler is expected to testify as a branding expert concerning the subject matter disclosed in his expert report, and to give his opinion concerning the brands belonging to Plaintiffs and Defendants.

4. Terry G. Lankford, c/o George Arnold & Associates, 1161 East Marion Street #230, Shelby, North Carolina 28150, (704) 471-2100. Mr. Lankford is expected to testify concerning his investigation into Defendants' use of the Get Lucky trademark and a telephone call which he had with David Cohen of Ally Apparel on June 9, 2005.

5. Scott Gelin, Esq. Greenberg Traurig, LLP, 200 Park Avenue, New York, New York 10166, (212) 801-9200, is a Shareholder of that firm and is expected to testify solely to authentication of documents which he printed from www.ebay.com.

6. Sophia Tsokos, Esq., Guinefort Group, LLC, 358 7<sup>th</sup> Avenue, Suite 154, Brooklyn, New York 11215, (646) 536-3559. Ms. Tsokos is expected to testify solely to authentication of documents which she printed from www.ebay.com.

7. Ezra Mizrachi, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is expected to testify as to the nature of any of Defendants' defenses to the Complaint, the activities and use of GET LUCKY by Marcel, the License Agreement, and the activities and use of GET LUCKY by Ally.

8. Paula Ring, 261 Mountain Road, Cape Neddick, Maine 03902, (207) 361-1128, is expected to testify as to the design and use of GET LUCKY by Ally.

9. Kevin Enders, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is expected to testify as to the nature of any of Defendants' defenses to the Complaint, and the design and use of GET LUCKY by Ally.

10. Louis R. Gigliotti, Esq., c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is expected to testify as to the nature of any of Defendants' defenses to the Complaint, the activities and use of GET LUCKY by Marcel, the License Agreement, and the activities and use of GET LUCKY by Ally.

11. Tim Butler, address unknown, is expected to testify as to the activities and use of GET LUCKY by Ally.

12. David Cohen, address unknown, is expected to testify as to the activities and use of GET LUCKY by Ally.

13. Richard Berrios, address unknown, is expected to testify as to the activities and use of GET LUCKY by Ally.

Defendants' Witnesses

1. Ezra Mizrachi, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is the president of Marcel Fashion Group, Inc. and is expected to testify as to the activities and use of GET LUCKY by Marcel, the Settlement Agreement between the parties, the License Agreement, and the activities and use of GET LUCKY by Ally.

2. Kevin Enders, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is expected to testify as to the design and use of GET LUCKY by Ally.

3. Louis R. Gigliotti, Esq., c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is expected to testify as to the activities and use of GET LUCKY by Defendants, the Florida litigation and settlement, the License Agreement, and his review and counsel on the use of GET LUCKY.

4. Paula Ring, 261 Mountain Road, Cape Neddick, Maine 03902, (207) 361-1128, is expected to testify as to the designs she created for Defendants.

5. Jeffrey Stec, CRA International, Inc. 101 North Wacker Drive, Suite 1600 Chicago, Illinois 60606, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York, 10022, (212) 402-9400, is Defendants' rebuttal expert and is expected to offer rebuttal testimony to Plaintiffs' Expert Dr. Joachimsthaler's report and testimony if necessary, and testimony on reverse confusion and damages.

6. Barry Perlman, Lucky Brand Jeans, 5233 Alcoa Avenue, Vernon, California 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400. Mr. Perlman is the co-founder of Lucky Brand and is expected to testify regarding the history and use of the Lucky Brand brand and Lucky Brand's uses of GET LUCKY.

7. Richard Berrios, address unknown, is expected to testify as to the activities and use of GET LUCKY by Ally.

8. Gene Bolmarcich, Esq., Liz Claiborne, Inc., 1 Claiborne Avenue, North Bergen, New Jersey 07407, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify on Plaintiffs' use and promotion of the Lucky Brand mark, Lucky Brand's trademark registrations, and the previous lawsuit and settlement between the parties.

9. Amy Hennisch, address, unknown, is expected to testify about Plaintiffs' use and promotion of the Lucky Brand marks and Marcel's GET LUCKY trademark.

10. David Cohen, address unknown, is expected to testify as to the activities and use of GET LUCKY by Ally.

11. Tony Pasquale, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400. Mr. Pasquale is expected to testify regarding Plaintiffs' infringing use of Marcel's GET LUCKY trademark since 2003.

12. Elizabeth Munoz, President of Lucky Brand, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400. Ms. Munoz is expected to testify regarding all uses of GET LUCKY post settlement and, in particular the 2007 counterfeiting use on t-shirt.

13. Jackie Goldberg, 23241 Ventura Boulevard, Suite 100F, Woodland Hills, California 91364, (818) 606-6679. Ms. Goldberg is expected to testify regarding Marcel's sales of garments containing the GET LUCKY trademark.

14. Michelle Hirsch, 23241 Ventura Boulevard, Suite 100F, Woodland Hills, California 91364, (818) 606-6679. Ms. Hirsch is expected to testify regarding Marcel's sales of garments containing the GET LUCKY trademark.

15. Shaul Nakash, c/o Counsel for Jordache, Robert Spiegelman, 1400 Broadway, 15<sup>th</sup> Floor, New York, New York 10018, (212) 947-4575. Mr. Nakash is expected to testify regarding negotiations with Marcel for licensing of the GET LUCKY trademark.

16. Erich Joachimsthaler, Vivaldi Partners, 125 Park Avenue, Suite 1500, New York, New York 10017, (212) 965-0900, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400. Dr. Joachimsthaler is expected to offer his opinion concerning the brands belonging to Plaintiffs and Defendants.

17. Terry Lankford, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding his investigation activities concerning Marcel's activities and use of the GET LUCKY trademark.

18. Thomas Garner, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding Lucky Brand's use of the GET LUCKY trademark.

19. Jim Mudgett, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding Lucky Brand's use of the GET LUCKY trademark.

20. Heather Green, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding Lucky Brand's use of the GET LUCKY trademark.

21. Bridget Wirtz, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding Lucky Brand's use of the GET LUCKY trademark.

22. Lisa Loehrlein, Lucky Brand Jeans, 5233 Alcoa Ave., Vernon, CA 90058, c/o Waddey & Patterson, P.C., 1600 Division Street, Suite 500, Nashville, Tennessee 37203, (615) 242-2400, is expected to testify regarding Lucky Brand's use of the GET LUCKY trademark.

23. Katherine Thornburgh, c/o McKool Smith P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is an associate at McKool Smith, P.C., and is expected to testify regarding the authentication of documents printed from the Liz Claiborne Inc. website.

24. Daniela Lattes, c/o McKool Smith, P.C., 399 Park Avenue, Suite 3200, New York, New York 10022, (212) 402-9400, is a paralegal at McKool Smith, P.C. and is expected to testify as to the authentication of summary evidence.

**d. A final exhibit list in tabular form containing the following information for all exhibits to be offered at trial. Exhibits not identified on this list may not be offered during a party's case in chief.**

Plaintiffs' Exhibit List:

Objection Codes:

CU – Cumulative (FRE 611)	IC – Incomplete – Best Evidence (FRE 1001, 1002, et seq.)	* – No Objection to Authenticity (FRE 901, 902)
DA – Inadmissible under Daubert (FRE 702, 703)	IR – Irrelevant (FRE 401, 402)	NP – Not Produced during Discovery
DU – Duplicative (FRE 611)	NE – Not Evidence	PR – Prejudice Outweighing Probative Value (FRE 403)
ET – Violation of Professional Ethics	NF – No Foundation	
HS – Hearsay (FRE 801, 802)	** – No Objection	

Ex. #	Description	Bates Range	Objections	Status
1	Declaration of Paula Ring	None	**	
2	Excerpt from Memorandum of Law in Support of Plaintiffs' Application for a Preliminary Injunction	None	*, NE, IC	
3	Excerpt from Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment	None	*, NE, IC	
4	Subpoena Duces Tecum to Paula Ring	None	**	
5	Notice of Deposition for Paula Ring	None	**	
6	Color image of Get Lucky Hoodie	None	**	
6A	Color image of "Get Lucky Logo Green & Navy T-Shirt" from www.WagglePop.com	LUCKY 013423-013429	HS, NF	

Ex. #	Description	Bates Range	Objections	Status
6B	Color image of "Lucky Brand Stitch T-Shirt" from www.Buckle.com	LUCKY 013408 – 013409	HS, NF	
6C	Color image of "Lucky Brand Denim Goods T-Shirt" from www.Buckle.com	LUCKY 013402 – 013403	HS, NF	
7	Color image of "Get Lucky Lodge" t-shirt from www.GetLuckyJeans.com	None	**	
7A	Color image of "Lucky Fishin Lodge" logo	None	IR, NF	
8A	Color image of sleeveless shirt with griffin logo from www.GetLuckyJeans.com	LUCKY 013488	**	
8B	Color image of short sleeved shirt button-down shirt with eagle print from www.GetLuckyJeans.com	LUCKY 013489	**	
8C	Color images of Lucky Brand clothing with images of eagles and griffins	LUCKY 2641 – 2642; 2626; 2640	IR, NF	
9	Color image of green Get Lucky t-shirt from www.GetLuckyJeans.com	LUCKY 013483	**	
9A	Color image of white Lucky Brand logo with blue background	LUCKY 002622	IR, NF	
10	Color image of blue Get Lucky t-shirt titled as Lucky Jeans t-shirt from www.ebay.com	LUCKY 013466 - 013469	HS, NF	
10A	Color image of Lucky brand "Lucky You" logo with dice	LUCKY 011526	IR, NF	
11	Color image of Get Lucky grey t-shirt from www.GetLuckyJeans.com	LUCKY 013482	**	
11A	Color image of Get Lucky tag with horseshoe logo	None	**	
11B	Color images of Lucky Brand logo with horseshoe	LUCKY 002633; 02635; 02636	IR, NF	
12	Color images of Get Lucky "Road Trip" white t-shirt from www.ebay.com	LUCKY 002825 – 02826	HS, NF	
12A	Color images of "Lucky's Rod Shop" t-shirts	LUCKY 002629	IR	
13	Color images of "Get Lucky" t-shirt with bottle cap and shamrock logo	LUCKY 013430 – 013433	**	

Ex. #	Description	Bates Range	Objections	Status
13A	Color and B&W images of Lucky Brand logo on bottle cap graphic	LUCKY 011570, 011571, 011396	IR, NF	
14	Poster board with side-by-side comparison of Get Lucky and Lucky Brand shirts	None	IR, NF, NE, PR	
15	Poster board with side-by-side comparison of "Get Lucky Road Trip" and "Lucky's Rod Shop" t-shirts	None	IR, NF, NE, PR	
16	Poster board with side-by-side comparison of Get Lucky Griffin logo shirts and Lucky Brand Griffin logo t-shirts	None	IR, NF, NE, PR	
17	Poster board with side-by-side comparison of Get Lucky t-shirt and Lucky Brand t-shirt	None	IR, NF, NE, PR	
18	Poster board with Get Lucky denim shirt and t-shirt with American flag colored logos	None	**	
19	Exhibits to Declaration of Kevin Enders	M00090 – 00101	**	
20	Email from Enders to Gigliotti forwarding email from Tim Butler dated March 3, 2004	M05755 – 05756	*; HS	
21	Series of "Get Lucky" logo images (black and white copy)	M05764 – 05769	*; IR	
22	Email from Enders to Gigliotti dated March 5, 2004 forwarding emails and attaching images of "Get Lucky" logo	M05757	*; HS	
23	Email chain from Butler to Enders dated April 29, 2004, forwarding emails	M01087 – 01089	*; HS	
24	Trademark License Agreement between Marcel Fashion and Ally Apparel dated May 23, 2004	M00569 – 00597	**	
25	Purchase and Assignment Agreement between Vizion and Marcel dated March 23, 2004	M00002 – 00007	** except M00004-7 which are not part of the Agreement	

Ex. #	Description	Bates Range	Objections	Status
26	Letter from Gautam Gandhi to Ezra Mizrachi re total gross sales by retail customer dated January 12, 2005 attaching invoice records	M01338 – 01351	**	
27	Letter from Gautam Gandhi to Ezra Mizrachi re total gross sales by retail customer dated April 19, 2005 attaching invoice records	M01352 – M01377	**	
28	Letter from Gautam Gandhi to Ezra Mizrachi re total gross sales by retail customer dated July 19, 2005 attaching invoice records	M01378 – M01397	**	
29	Letter from Gautam Gandhi to Ezra Mizrachi re total gross sales by retail customer dated October 19, 2005 attaching invoice records	M01398 – 01409	**	
30	Letter from Gautam Gandhi (missing first page) re total gross sales by retail customer attaching invoice records	M01410 – 01417	**	
31	Letter from Gautam Gandhi to Ezra Mizrachi re total gross sales by retail customer dated April 19, 2006 attaching invoice records	M01418 – 01430	**	
32	Letter to Ezra Mizrachi (second page of letter missing) re total gross sales by retail customer dated July 19, 2006 attaching invoice records	M01431 – 01436	**	
33	Email from Ring to Enders dated November 8, 2004, including email chain	M01105 – M1109	*; HS	
34	Letter from Charles Klein to Kevin Enders re Termination of License Agreement, dated November 9, 2005	M05848 – 05850	*; HS	
35	Document intentionally left blank	None		
36	Email among Livoti, Gigliotti, and Stopler re contract, dated September 9, 2005	M05854 – 05855	**	
37	Email among Livoti, Gigliotti, Stopler re contract, dated September 8, 2005	M05853	**	

Ex. #	Description	Bates Range	Objections	Status
38	Email among Gigliotti, Livoti, and phild@apscoenterprises.com re lawsuit, dated August 15, 2005	M05856	**	
39	Email among Gigliotti, Livoti, and phild@apscoenterprises.com re lawsuit, dated August 15, 2005	M05852	**	
40	Exhibits to Declaration of Ezra Mizrachi	None	**	
41	Email among Livoti, Gigliotti, and phild@apscoenterprises.com re "Get Lucky Exp's", dated August 10, 2005	M05860	**	
42	Email among Livoti, Gigliotti, and phild@apscoenterprises.com re lawsuit dated August 3, 2005	M05851	**	
43	Letter from Gigliotti to Viviana Dikienson re "GET LUCKY" – Marcel Fashion Group, Inc./Pink Lady dated November 5, 2002	M05798	**	
44	Letter from Gigliotti to APSCO Enterprises re Termination of License Agreement dated January 13, 2006	M05845 – 05846	**	
45	Offer Sheet between Get Lucky and Jordache dated July 13, 2005	M05770 – 05774	**	
46	Email among Gigliotti, Nakash, and bpalmer@jeans-wear.com re Get Lucky dated July 12, 2005	M05775	**	
47	Exhibits to Declaration of Louis R. Gigliotti, Esq.	None	**	
48	Letter from Sam Lou to Ezra Mizrachi re Get Lucky Sales Summary dated May 7, 2007 attaching invoice register report	M05750 – 05752	**	
49	Document intentionally left blank	None		
50	Pretrial Stipulation dated April 21, 2003, filed April 18, 2003	LUCKY 002427 – 002459	HS, NF, IR, NE	
51	Marcel Fashions Get Lucky Collection 2001 catalog	LUCKY 002682 – 002705	**	

Ex. #	Description	Bates Range	Objections	Status
52	Business Card of David Cohen – VP National Sales for Get Lucky	LUCKY 002757	**	
53	Release and Settlement Agreement between Marcel and Lucky Jean/ Liz Claiborne dated September 9, 2001	LUCKY 002851 – 002867	**	
54	Exhibits to Declaration of Louis R. Gigliotti, Esq. dated January 24, 2007	None	**	
55	Statement dated August 28, 2004	M00007	**	
56	Email among Nakash, Gigliotti, and Palmer re Financials dated September 16, 2005	M05776	**	
57	Email among Nakash, Gigliotti, and Palmer re financials dated September 12, 2005	M05777	**	
58	Email among Palmer, Gigliotti, and gbs69@msn.com re Get Lucky dated September 8, 2005	M05778	*; HS, NF	
59	Email from Palmer to Gigliotti re Get Lucky dated August 25, 2005	M05779	**	
60	Email chain among Nakash, Gigliotti, and Palmer re Yo dated August 8, 2005	M05780 – 05781	**	
61	Email chain among Palmer and Gigliotti re Response from Jordache dated July 14, 2005	M05782 – 05783	**	
62	Email from Nakash to Gigliotti, re Get Lucky dated July 19, 2005	M05784	**	
63	Email among Nakash, Gigliotti, Palmer re Yo dated July 28, 2005	M05785	**	
64	Email from Nakash to Gigliotti re Yo dated July 28, 2005	M05786	**	
65	Email from Nakash to Gigliotti re Get Lucky dated July 2, 2005	M05787	*; HS, NF	
66	Email chain among Nakash, Gigliotti, and Palmer Yo dated September 7, 2005	M05790 – 05791	*; HS, NF	

Ex. #	Description	Bates Range	Objections	Status
67	Email chain between Nakash and Gigliotti re Get Lucky dated February 14, 2006	M05792	**	
68	Email from Gigliotti to stankyoosh@aol.com re Get Lucky dated July 1, 2005	M05793	*; HS, NF	
69	Email chain between Gigliotti and snakash@jeans-wear.com re Get Lucky dated February 14, 2006	M05795	**	
70	Email chain between Gigliotti and Nakash re Get Lucky dated February 14, 2006	M05796	**	
71	Email from Gigliotti to Nakash re Get Lucky dated May 9, 2006	M05797	**	
72	First page of Income Tax Return for Marcel Fashions Group attaching handwritten calculations	M01453 – 01454	*; HS, NF, IR	
73	Lucky Brand Net Sales from 2000 to 2007	LUCKY 14098	**	
74	Tape dated June 9, 2005	LUCKY 14037	HS, NF, IR, PR, ET <sup>1</sup>	
75	Expert Opinion of Dr. Erich Joachimsthaler	None	HS, NE, IR, NF, PR, DA	
76	Images shown behind Panel A, B and C pages	VIVALDI 162 – 187	HS, NE, IR, NF, PR, DA	
77	Vivaldi Partners Cocktails & Clothes Questionnaire, dated June 5, 2007	VIVALDI 1 – 9	**	
78	Color copies of Marcel catalogs	M05764 – 05769	*; HS, NF, IR, PR, ET <sup>2</sup>	
79	Color copies of Get Lucky labels	M05762 – 05763	*; IR	
80	Complaint in Marcel Fashion v. Lucky Brand Dungarees dated May 3, 2000	Lucky 2412 – 2426	**	

<sup>1</sup> This tape recording is the subject of Defendants' Motion in Limine To Bar All Testimony and Evidence Regarding Plaintiffs' Private Investigator's Telephone Conversation With David Cohen.

<sup>2</sup> Misdescribed – Not Marcel catalogues – Ex 78 includes a copy of what has already been designated as Exhibit 21 (which are copies of GET LUCKY artwork samples)

Ex. #	Description	Bates Range	Objections	Status
81	Trademark License Agreement between Marcel Fashion and APSCO Enterprises, Inc. dated March 2005	M01126 – 01147	**	
82	Letters from Sam H. Lou to Ezra Mizrahi re Total Gross Sales by Retail Customer dated May 7, 2007 and January 2, 2007 attaching sales figures	M05750 – 05754	**	
83	Transcript of telephone call between Terry Lankford and Ally Apparel dated June 9, 2005	LUCKY 2740 – 2742	HS, NF, IR, PR, ET <sup>3</sup>	
84	2001 U.S. Income Tax Return for Marcel Fashions	M01308 – 01311	*; HS, NF, IR	
85	2000 U.S. Income Tax Return for Marcel Fashions	M01312 – 01316	*; HS, NF, IR	
86	1999 U.S. Income Tax Return for Marcel Fashions	M01317 – 01320	*; HS, NF, IR	
87	1998 U.S. Income Tax Return for Marcel Fashions	M01321 – 01326	*; HS, NF, IR	
88	1997 U.S. Income Tax Return for Marcel Fashions	M01327 – 01331	*; HS, NF, IR	
89	Collected "Television, Movie, and Celebrity Placement" from Lucky Brand	LUCKY 003007 – 003039	HS, NF, IR	
90	Marcel Fashions Group, Inc. Get Lucky catalog	LUCKY 002758 – 002775	**	
91	Color image of blue denim collared shirt with red, white, and blue graphics	LUCKY 002678	**	
92	Color image of Get Lucky shirt with "Las Vegas" logo	LUCKY 002680 – 002681	**	
93	Color image of Get Lucky t-shirt with American flag heart logo	LUCKY 002676 – 002677	**	
94	Color printout of Get Lucky products from <a href="http://www.getluckyjeans.com/products.htm">www.getluckyjeans.com/products.htm</a> including larger images of products	LUCKY 013478 – 013500	**	

<sup>3</sup> This transcript is the subject of Defendants' Motion In Limine To Bar All Testimony and Evidence Regarding Plaintiffs' Private Investigator's Telephone Conversation With David Cohen.

Ex. #	Description	Bates Range	Objections	Status
95	Color image of Get Lucky blouse and t-shirt titled "Get Lucky' Blouse & Tee Set-Sx. XL Fish Theme" from www.ebay.com	LUCKY 003086 – 003091	HS, NF	
96	Color image of Get Lucky jeans titled "Lucky 'Get Lucky' Jeans Sz 32/20" from www.ebay.com	LUCKY 14038 – 14043	HS, NF	
97	Color image of Get Lucky jeans titled "Mens Lucky Jeans Get Lucky Est. 85 34x32" from www.ebay.com	LUCKY 14044 – 14046	HS, NF	
98	Color image of Get Lucky Lodge shirt titled "Lucky Jeans mens shirt Brown 'Get Lucky Lodge' XL" from www.ebay.com	LUCKY 14047 – 14050	HS, NF, IR	
99	Color image of Get Lucky jeans titled "NWT 'Get Lucky' Lucky Brand Jeans 36x32" from www.ebay.com	LUCKY 14051 – 14053	HS, NF, IR	
100	Color image of Get Lucky t-shirt titled "LUCKY Brand GET LUCKY Mens Retro T-shirt XL Emo Punk"	LUCKY 14054 – 14057	HS, NF, IR	
101	Color image of Get Lucky jeans titled "Lucky Brand Jeans Get Lucky Teens Young Men No Reserve" from www.ebay.com	LUCKY 14058 – 14060	HS, NF, IR	
102	Color image of Get Lucky Road Trip t-shirt titled "Brand New Get Lucky Brand Shirt with 50's icon" from www.ebay.com	LUCKY 14061 – 14063	HS, NF, IR	
103	Color image of Get Lucky jeans titled "Get Lucky Lucky Brand Jeans NWT Blue Blast 40/32" from www.ebay.com	LUCKY 14074 – 14076	HS, NF, IR	
104	Color image of Get Lucky button shirt titled "Brand New Get Lucky Brand Stripped Button Shirt" from www.ebay.com	LUCKY 14077 – 14079	HS, NF, IR	
105	Color image of Get Lucky jeans titled "Lucky Brand Jeans Get Lucky NWT Size 30-32 Low Rise" from www.ebay.com	LUCKY 14080 – 14082	HS, NF, IR	

Ex. #	Description	Bates Range	Objections	Status
106	Color image of Get Lucky jeans titled "Lucky Brand Get Lucky Long Cargo Shorts NWT" from www.ebay.com	LUCKY 14070 – 14073	HS, NF, IR	
107	Printout from www.ebay.com auctioning "Lucky Brand Get Lucky NWT Size 38/30 \$50 Boot Cut"	LUCKY 14067 – 14069	HS, NF, IR	
108	Printout from www.ebay.com notifying the user of a winning bid on Get Lucky t-shirt titled "LUCKY JEANS mens t-shirt white/blue 'get lucky 1985' L"	LUCKY 2785 – 2788	HS, NF, IR	
109	Color image of Get Lucky t-shirt titled "LUCKY JEANS mens t-shirt white/blue 'get lucky 1985' L" from www.ebay.com	LUCKY 2794 – 2796	HS, NF, IR	
110	Color image of Get Lucky t-shirt titled "NWT MENS GET LUCKY/LUCKY BRAND SHIRT SZ/MEDIUM" from www.ebay.com	LUCKY 2806 – 2808	HS, NF, IR	
111	Color image of Get Lucky shorts titled "NWT MENS LUCKY BRAND GET LUCKY CARPENTER SHORTS SZ 34" from www.ebay.com	LUCKY 2812 – 2814	HS, NF, IR	
112	Color image of Get Lucky t-shirt titled "LUCKY JEANS mens t-shirt white/blue 'get lucky 1985' L" from www.ebay.com	LUCKY 2828 – 2829	HS, NF, IR	
113	Color image of Get Lucky jeans titled "NWT 'Get Lucky' Lucky Brand Jeans 36x32" from www.ebay.com	LUCKY 2830 – 2832	HS, NF, IR	
114	Color image of Get Lucky Lodge t-shirt titled "LUCKY JEANS mens shirt Brown 'Get Lucky Lodge' XL from www.ebay.com	LUCKY 2833 – 2836	HS, NF, IR	
115	Color image of Get Lucky t-shirt titled "NWT Mens Get Lucky T-SHIRT XL BLUE LUCKY BRAND" from www.ebay.com	LUCKY 2837 – 2842	HS, NF, IR	

Ex. #	Description	Bates Range	Objections	Status
116	Printout from www.ebay.com notifying user that bidder has ended on Get Lucky shirt titled "NEW GET LUCKY BRAND VINTAGE LOOK BROWN PAISLEY SHIRT LG"	LUCKY 2844 – 2847	HS, NF, IR	
117	Color image of Get Lucky shirt titled "NEW GET LUCKY BRAND VINTAGE LOOK BROWN PAISLEY SHIRT LG"	LUCKY 2848 – 2850	HS, NF, IR	
118	Color image of Get Lucky t-shirt titled "LUCKY JEANS mens t-shirt white 'get lucky 1985' L new" from www.ebay.com	LUCKY 13453 – 13456	HS, NF, IR	
119	Color image of Get Lucky t-shirt titled "LUCKY JEANS mens SS polo shirt white 'GET LUCKY' L" from www.ebay.com	LUCKY 13457 – 13460	HS, NF, IR	
120	Color image of Get Lucky polo shirt titled "LUCKY JEANS mens polo shirt Orange 'Get Lucky' M" from www.ebay.com	LUCKY 13412 – 13415	HS, NF, IR	
121	Collected Lucky Brand press clippings	Documents with LUCKY bates stamps	HS, NF, IR	
122	Collection of Trademark certificates belonging to Lucky Brand	Documents with LUCKY bates stamps and non-bates stamped documents	NF, Some NP, Some IR	
123	Collection of Lucky Brand celebrity endorsements	Documents with LUCKY bates stamps	NF, HS, IR, CU	
124	Collection of Lucky Brand advertisements	Documents with LUCKY bates stamps	HS, NF, IR, CU, DU	
125	Order Denying Preliminary Injunction from Marcel v. Lucky Brand dated February 2, 2002	None	NE, HS, IR, PR	

Defendants' Exhibit List:

Key to Plaintiffs' Objections to Defendants' Exhibits:

**	No Objection
*	No Objection to Authenticity (FRE 901, 902)
A	Fed. R. Evid. 801, 802 - The document contains inadmissible hearsay.
B	Fed. R. Evid. 402 - The document is not relevant to any material issue in the case.
C	Fed. R. Evid. 403 - Any probative value of the evidence is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the jury, waste of time, or cumulativeness.
D	Authentication and Foundation
E	Fed. R. Evid. 403, 611 - Cumulative
F	Fed. R. Evid. 901, 1001, 1002 - Violates Best Evidence rule
G	Exhibits not produced.
H	Mischaracterization
I	Documents not timely produced.
J	Not evidence.

Ex. #	Description	Bates Range	Objections	Status
A	USPTO Reg. No. 1,377,345 Certificate of Trademark Registration	M03381 - 03382	**	
B	DDX 7 - USPTO Trademark Reg. No. 2,765,974 Principal Register "GET LUCKY" Registration in 2003	none	A,B,D	
C	DDX 6 -USPTO Trademark Electronic Search for "GET LUCKY"	none	C,D	
D	Trademark Certificate for GET LUCKY issued by State of Florida Department of State to Marcel Fashions, Inc., dated 3/6/1985	M03380	**	
E	DDX 8 - Lucky Brand's Notice of Opposition to GET LUCKY Trademark application, dated 4/13/1998	none	* ,B	
F	DDX 11 - Dismissal of Opposition with Prejudice	none	**	
G	Notice of Opposition by Lucky Brand Dungarees, Inc. to Trademark Application 75/466,537, dated 5/3/2000	M03375 - 03378	* ,B	

Ex. #	Description	Bates Range	Objections	Status
H	Assignment of Trademarks, dated 7/3/1995, between Marcel Fashion, Inc. and Marcel Fashion Group, Inc.	M03280	**	
I	Trademark License Agreement, dated 5/21/2004, between Marcel Fashion Group, Inc. and Ally Apparel Resources, LLC	M00008 - 00028	**	
J	Trademark License Agreement, dated March 2005, between Marcel Fashion Group, Inc. and APSCO Enterprises Inc.	M01126 - 01147	**	
K	Marcel Fashions 1985 Florida Trademark applications to Register GET LUCKY and GET LUCKY and Horseshoes Design and Federal Trademark Application to register GET LUCKY	M03132 - 03143	*,A,B	
L	Complaint in Marcel Fashion Group, Inc. v. Lucky Brand Dungarees, Inc., et al., Case No. 01-CIV-7495 (S.D. Fla., filed Sep. 19, 2001)	LUCKY 002412 - 002426	*,A,B	
M	DDX 20 - Complaint in Marcel Fashion Group, Inc. v. Lucky Brand Dungarees, Inc., et al.	none	*,J, B	
N	Plaintiffs' Answer to Defendants' Counterclaims	none	*,J, B	
O	Plaintiffs' Responses and Objections to Defendants' First Set of Interrogatories	none	*,J	
P	Defendants' Supplemental Objections and Response to Plaintiffs' First Set of Interrogatories	none	*,A,J	
Q	Release and Settlement Agreement between Marcel Fashion Group, Inc. and Lucky Brand, Inc., Federated Department Stores, Inc. and Liz Claiborne, Inc. dated 5/20/2003	LUCKY 002851 - 002867	**	
R	Purchase and Assignment Agreement, dated 3/23/2004, between Vizion, Inc. and Marcel Fashion Group, Inc.	M00002 - 00003	**	
S	Declaration of Paula Ring	none	A,C,D	
T	Declaration of Richard Berrios, dated 8/13/2005, with accompanying exhibits	none	A,C,D	

Ex. #	Description	Bates Range	Objections	Status
U	Declaration of Ezra Mizrachi, dated 8/11/2005, with accompanying exhibits	none	A,C,D	
V	Declaration of Kevin Enders, dated 8/12/2005, with accompanying exhibits	none	A,C,D	
W	Declaration of Louis R. Gigliotti, Esq., undated, with accompanying exhibits	none	A,C,D	
X	Lucky Brand Jeans GET LUCKY Advertisement	LUCKY 005013	* ,B	
Y	Lucky Brand Jeans Advertisement: "Get Lucky! Today"	LUCKY 006156	* ,B	
Z	Color copy of taxicab advertisement for Lucky Brand Jeans: GET LUCKY Today	LUCKY 006806	* ,B	
AA	Lucky Brand Fragrances Advertisement for men and woman: GET LUCKY	LUCKY 005238 - 005240	* ,B	
AB	Lucky Brand Wrap Bus advertisement: GET LUCKY	LUCKY 006809	* ,B	
AC	Lucky Brand Logo: GET LUCKY	LUCKY 006859	* ,B	
AD	Lucky Brand Jeans Advertisement: "GET LUCKY!"	LUCKY 006158	* ,B	
AE	Lucky Brand Jeans Tall Wall and Bus Advertising	LUCKY 006896 - 006897	* ,B	
AF	Lucky Brand Jeans Advertisement: "Don't Gamble Get Lucky Brand"	LUCKY 006873	* ,B	
AG	Lucky Brand Jeans Advertisement: "Get Lucky Here!"	LUCKY 006154	* ,B	
AH	Lucky Brand GET LUCKY Advertisement - La Brea Storefront Awning Installed 3/13/2000	LUCKY 008740	* ,B	
AI	Lucky Brand Storefront Cutout, Third Street, Santa Monica, California - GET LUCKY Here	LUCKY 008741	* ,B	
AJ	Lucky Brand Wall Advertisement, San Francisco Centre, California - GET LUCKY	LUCKY 008742	* ,B	
AK	Lucky Brand packaging for laundry detergent and chocolate bar	LUCKY 003070	* ,B	
AL	Lucky Brand Hang Tag "Do you buy Lucky to Get Lucky?"	LUCKY 006798	* ,B	

Ex. #	Description	Bates Range	Objections	Status
AM	Lucky Brand Underwear Mid Rise Brief Box	LUCKY 008633	*,B	
AN	Lucky Brand Underwear Button Fly Boxer Brief Box	LUCKY 008635	*,B	
AO	Lucky Brand Underwear Knit Boxer Box	LUCKY 008639	*,B	
AP	Lucky Brand GET LUCKY Wall Advertisement	LUCKY 008743	*,B	
AQ	Lucky Brand Logo # 1539	LUCKY 009083	*,B	
AR	Lucky Brand Logo 1-160	LUCKY 009084	*,B	
AS	Lucky Brand Logo # 1753	LUCKY 009086	*,B	
AT	DDX 5 - Lucky Brand "Get Lucky" Advertisements	LUCKY 006678 - 006679	*,B,C,E,F,H	
AU	DDX 13 - Stuff Magazine Luck No. 6 Advertisement (February 2007)	LUCKY 14084 - 14086	**	
AV	DDX 14 - Marie Claire Magazine GET LUCKY Advertisement (February 2007)	LUCKY 14087 - 14089	**	
AW	DDX 15 - Cosmopolitan Magazine GET LUCKY Advertisement (February 2007)	LUCKY 14090 - 14092	**	
AX	DDX 16 - Lucky Magazine GET LUCKY Advertisement (February 2007)	LUCKY 14093 - 14095	**	
AY	DDX 17 - Information from Heather Mason re: Scent strips for "Get Lucky" Lucky No. 6 Fragrances	LUCKY 14097	A,B,C,D	
AZ	Article, "Lucky Brand: Two guys and a dream and a jean," Apparel Industry Magazine (Apr. 2000), at 26	LUCKY 005753	**	
BA	Lucky Brand Press Release dated 3/24/2003	LUCKY 006744	**	
BB	DDX 21 - Lucky Brand Press Releases	LUCKY 006745 - 006746	**	
BC	Lucky Brand Dungarees Company Overview	LUCKY 005751	**	
BD	Lucky Brand GET LUCKY Here Logo	LUCKY 009087 - 009807	*,B	
BE	Color Copies of Marcel GET LUCKY Apparel - T-shirts and Jeans	LUCKY 002676 - 002681	**	

Ex. #	Description	Bates Range	Objections	Status
BF	Get Lucky Jean Tag	M01031	D	
BG	Get Lucky Hang Tag	M01032	**	
BH	Intentionally Left Blank	M01033	**	
BI	Marcel Fashions Get Lucky Labels and Hand tags (1985 - present)	M01289 - 01290	* ,B	
BJ	Artwork For Get Lucky Various Apparel Tags	M01037	**	
BK	Artwork for Get Lucky Apparel Tags	M01045	**	
BL	Color Photographs of Marcel Fashions GET LUCKY Jeans wear	M00610 - 00622	**	
BM	Marcel Fashions GET LUCKY Price List	M01286 - 01287	* ,B	
BN	Marcel - Get Lucky Contemporary Women's Shirts and Color Line Catalog	M00704 - 00705	* ,B	
BO	Marcel - Get Lucky Contemporary Women's Shirts and Color Line Catalog	M00706 - 00707	* ,B	
BP	Marcel - Get Lucky Contemporary Women's Shirts and Color Line Catalog	M00708 - 00709	* ,B	
BQ	Marcel Get Lucky Contemporary Twill Collection: Tops and Bottoms	M00710 - 00711	* ,B	
BR	Excerpt from Website <a href="http://www.luckybrandjeans.com/states/FL.htm">http://www.luckybrandjeans.com/states/FL.htm</a> , "Where to Get Lucky Store Locator"	M05164 - 05169	* ,B	
BS	Lucky Brand Jeans Press Statement, "The Story of Lucky," dated May 2005	LUCKY 002874 - 002886	**	
BT	Lucky Brand T-shirt Designs	LUCKY 002894 - 002943	**	
BU	Lucky Brand T-shirt Designs	LUCKY 002957 - 002970	**	
BV	Lucky Brand Ad and Logo Sampler 1999 - 2003	LUCKY 003126 - 003128	* , B	
BW	Lucky Brand Jeans Advertising Strategy	LUCKY 003132 - 003152	**	

Ex. #	Description	Bates Range	Objections	Status
BX	Lucky Brand Jeans Advertising Samples	LUCKY 003153 - 003174	**	
BY	Lucky Brand Jeans Hang Tag - "Do you Buy Lucky to Get Lucky"	LUCKY 14083	* ,B	
BZ	Lucky Brand Jeans Women's Fall 2002	LUCKY 004593 - 004623	** , B	
CA	Lucky Brand Jeans Men's Fall 2003 Catalog	LUCKY 004530 - 004566	** , B	
CB	Lucky Brand Jeans Women's Fall 2003 Catalog	LUCKY 004463 - 004507	** , B	
CC	Lucky Brand Advertising Materials	LUCKY 003153 - 003174	* ,H	
CD	DDX 25 - Lucky Brand Jeans Summer 2007 Catalog - Womens	LUCKY 009530 - 009565	**	
CE	DDX 26 - Lucky Brand Jeans Catalog - Womens	LUCKY 009609 - 009617	**	
CF	DDX 27 - Lucky Brand Jeans Catalog - 2 <sup>nd</sup> Quarter 2006	LUCKY 010027 - 010034	**	
CG	Article titled "Right Turn," WWD, dated 8/28/2000	M01288	A,B,D	
CH	DDX 28 - Blackbook Magazine LUCKY BRAND Advertisement (Spring/Summer 03)	LUCKY 006207 - 006208	* , B	
CI	Marcel Fashion Purchase Orders for Nordstrom Rack, dated 4/10/2002	M00679 - 00682	* ,B, A	
CJ	Marcel Fashion Purchase Orders for Nordstrom Rack, dated 4/20/2002	M00675 - 00678	* ,B, A	
CK	Assorted Marcel Fashions Get Lucky Apparel Tags	M03383 - 03387	D,E	
CL	Marcel Fashions Get Lucky Apparel Tag	M05370	**	
CM	Artwork For Get Lucky Apparel Tags	M00004 - 00006	D,E	
CN	Marcel Fashions Get Lucky Collection 2001	M01262 - 01285	* ,F	
CO	DDX 10 - Collection 2001 Marcel Fashions	LUCKY 002682 - 002705	**	
CP	Marcel Get Lucky Contemporary Stretch Twill Collection: Jackets	M00600 - 00601	**	
CQ	Marcel Get Lucky Contemporary Stretch Twill Collection: Blouses	M00602 - 00603	**	

Ex #	Description	Bates Range	Objections	Status
CR	Marcel Get Lucky Contemporary Stretch Twill Collection: Bottoms	M00604 - 00605	**	
CS	Marcel Get Lucky Contemporary Stretch Twill Collection: Bottoms	M00606 - 00607	**	
CT	Marcel Get Lucky Contemporary Stretch Knit Collection: Tanks	M00608 - 00609	**	
CU	Marcel Fashions Get Lucky Collection 2001	LUCKY 002682 - 002705	**	
CV	Get Lucky Catalog Spring 2006	M01051 - 01065	**	
CW	Get Lucky Catalog Back to School 2006	M01066 - 01081	**	
CX	Get Lucky Spring 2006 Line Street/Catalog	M05705 - 05740	**	
CY	Alien/UFO Men's Casual Shirt (Physical Evidence)	none	**	
CZ	Olive/Red Patterned Men's Casual Shirt (Physical Evidence)	none	**	
DA	Bar-B-Q Patterned Men's Casual Shirt (Physical Evidence)	none	**	
DB	Black Men's Casual Shirt (Physical Evidence)	none	**	
DC	Intentionally Left Blank	none	B,D	
DD	Intentionally Left Blank	none	B,D	
DE	Striped T-Shirt (Physical Evidence)	none	B,D	
DF	Women's Lime Green T-Shirt (Physical Evidence)	none	**	
DG	Women's Aqua Long-Sleeved T-Shirt (Physical Evidence)	none	**	
DH	Women's Black "Margarita" T-Shirt (Physical Evidence)	none	**	
DI	Women's Pink Tank top (Physical Evidence)	none	**	
DJ	Women's Rhinestone-Studded Jeans Jacket (Physical Evidence)	none	**	
DK	Women's Lucky Number 7 Jeans Shirt (Physical Evidence)	none	B,D, unclear picture	
DL	Women's Button down Jeans Shirt (Physical Evidence)	none	**	

Ex #	Description	Bates Range	Objections	Status
DM	Women's Denim Drawstring Capris (Physical Evidence)	none	B,D	
DN	Various Marcel Get Lucky tags	none	**	
DO	Women's Rhinestone-Studded Denim Drawstring Pants	none	B,D	
DP	Women's Rhinestone-Studded Denim Blouse	none	**	
DQ	Women's Denim Pants	none	B,D	
DR	Women's Rhinestone-Collared Denim Shirt	none	**	
DS	DDX 22 - 2002 First Half Review Lucky Brand Dungarees Consumer Profile and Research - 2003	LUCKY 002552	**	
DT	DDX 24 - Photos of Marcel Fashion's "Get Lucky" apparel	LUCKY 002676 - 002681	**	
DU	DDX 29 - Lucky Brand T-shirt Graphics	Various LUCKY Bates Numbers	**	
DV	DDX 30 - Lucky Brand T-shirt Graphics	Various LUCKY Bates Numbers	**	
DW	DDX 31- Supplemental Declaration of Gene Bolmarcich in Support of Plaintiffs' Application for a Preliminary Injunction	none	* ,F,J	
DX	DDX 32 - 2000-2007 to Sales and Advertising Expenses from Lucky Brand	LUCKY 14098	**	
DY	DDX 33 - Lucky Brand Sales and Advertising Figures (1999-2006)	LUCKY 002551	* ,H	
DZ	DDX 36 - Lucky Brand 2003 Plan and Initiative Update	LUCKY 13746 - 13760	**	
EA	Lucky Brand 2004-2007 "Get Lucky" Q2 2004 Review & Future Strategies, dated 8/5/2004	LUCKY 13516 - 13551	**	
EB	Lucky Brand 3 <sup>rd</sup> Quarter Review 2005, dated 11/11/2005	LUCKY 13603 - 13649	**	
EC	Excerpt from Lucky Brand August Strategy Review 2006, dated 8/8/2006	LUCKY 13561 - 13602	**	
ED	Excerpt from Lucky Brand October Strategy Review 2006, dated 10/11/2005	LUCKY 13654 - 13701	**	
EE	DDX 3 - Lucky Brand Jeans Press Statement	LUCKY 002874 - 002878	**	

Ex. #	Description	Bates Range	Objections	Status
EF	DDX 4 -Lucky Brand Products Catalog - 1995	LUCKY 003191 - 003233	**	
EG	YM S.P.Y. Survey of Lucky Brand and competitive advertising	LUCKY 13506 - 13515	**	
EH	Lucky Brand Spring 2003 Ask Anything Study prepared by YM	LUCKY 006749 - 006757	**	
EI	Rebuttal Expert Report of Jeffery A. Stec, Ph.D.	none	A,B,C,D,E,F	
EJ	Curriculum Vitae of Jeffery A. Stec	none	A,B,C,D,E,F	
EK	DDX 1 -Rule 30(b)(6) Notice of Deposition	none	* ,B,F	
EL	DDX 2 - Plaintiffs Responses and Objections to Defendants' Rule 30(b)(6) Notice of Deposition	none	* ,F,J	
EM	DDX12-10/15/02 Letter from Gigliotti to Schiffmiller re: proposed settlement	none	* ,B	
EN	DDX 18 - 1/24/04 Letter from Gigliotti to Schiffmiller re: Lucky Brand's use of Get Lucky	none	* ,B	
EO	DDX 19 - Lucky Brand Hang Tag "Do you buy Lucky to Get Lucky?"	LUCKY 006798	* ,E	
EP	DDX 9 - Release and Settlement Agreement	LUCKY 002851 - 002867	* ,E	
EQ	Statement dated 3/28/2004 regarding lawsuit with Lucky Brand Dungarees, Inc.	M00007	A,B,D	
ER	Marcel Fashions Advertising Card	M01244	B,D	
ES	Marcel Fashions Advertising for Upcoming Trade Shows	M01245	B,D	
ET	Letter dated 1/24/2004 from L. Gigliotti, Esq. to M. Schiffmiller, Esq. re: Lucky Brand's use of Get Lucky	M00029	B,D	
EU	Get Lucky Fall/Holiday 2004 Receipt and Gross Profit Summary	M01241	* ,B	
EV	Get Lucky Profit Forecast/ Expense Structure	M01242	B,D, C	
EW	Get Lucky Spring 2005 Order summary	M01243	* ,B	
EX	Ally Business Plan & Projection for the 12 Months ended December 31, 2006	M01239 - 01240	B,D, C	

Ex #	Description	Bates Range	Objections	Status
EY	Tradeshow Brochure Listing Marcel as an Attendee	M01249 - 01251	B,D	
EZ	Tradeshow Brochure Listing Marcel as an Attendee	M03397 - 03399	B,D	
FA	Various Trade Show Brochures Listing Marcel as an Attendee	M03400 - 03420	B,D	
FB	Womens Wear in Nevada Buyers' Guide, August 27-30, 2001	M03421 - 03433	B,D	
FC	Various Trade Show Brochures Listing Marcel as an Attendee	M03434 - 03453	B,D	
FD	Letter dated 12/12/2001 from D. Bissell to E. Mizrachi with attached August 1985 buyers guide cover and listing	M03393 - 03396	B,D	
FE	Letter dated 10/21/2001 from D. Skinner regarding participation by E. Minachi in Florida Fashion Focus Shows	M03392	B,D	
FF	Application for Trademark Registration No. 75/466,537, dated 4/13/1998	M05042 - 05045	A,B,D	
FG	Letter dated 12/10/1998 from G. Nelson to E. Minachi regarding Lucky Brand Dungarees, Inc.	M04016 - 04017	B,D	
FH	Email dated 5/10/2006 regarding Get Lucky	M00599	A,B,D,F	
FI	Email dated - 4/27/2004 regarding Get Lucky development	M01082 - 01083	A,B	
FJ	Email dated 4/29/2004 regarding Get Lucky development	M01087 - 01089	A,B	
FK	Email dated 9/29/2004 regarding Get Lucky development	M01101	A,B	
FL	Email dated 10/6/2004 regarding BRANDED TEES with attached samples	M01102 - 01104	A,B	
FM	Marcel Fashions Purchase Orders for Bealls between 9/27/2001 and 12/20/2001	M01252 - 01259	B,D	
FN	Marcel Sales Documents for Bealls Department Stores between 6/29/2001 and 5/6/2002	M00633 - 00654	*,B	
FO	Marcel Sales Documents for J.C. Penney Co., Inc. between 10/23/2001 and 3/29/2002	M00687 - 00689	*,B	

Ex. #	Description	Bates Range	Objections	Status
FP	Marcel Sales Documents for Nordstrom Rack between 4/12/2002 and 4/29/2002	M00683 - 00686	*,B	
FQ	Letter dated 7/19/2006 from Ally Apparel to E. Mizrahi with attached gross sales report for Get Lucky Young Men's brand	M01332 - 01449	**	
FR	Marcel Invoices for Dillard's Inc. between 4/12/2006 and 12/11/2006	M00655 - 00674	*,B	
FS	Marcel Invoices for Boscov Department Stores, LLC between 4/25/2005 and 4/28/2005	M00699 - 00703	*,B	
FT	Vendor Agreement Documents for Sam's Club - 1991	M00713 - 00718	*,B	
FU	Various invoices between Marcel Fashions and various vendors	M02389 - 02430	*,B	
FV	Marcel Sales Documents for BOSCOV'S Department Stores, LLC between 3/24/2005 and 4/28/2005	M00690 - 00695	B,D	
FW	Report dated 11/11/2001 showing Marcel Fashion Commissions Due Detail and Retail Customer Identities	M01863 - 02015	B,D	
FX	Report dated 4/15/2005 showing Invoice by Date - Apparel Logistics Get Lucky, Inc.	M01148 - 01237	B,D	
FY	Marcel Fashions Customer List	M00719 - 00996	B,D,F	
FZ	Marcel Fashions, Inc. Sales Invoice Register for 9/1/1994 to 6/30/1999	M02431 - 03057	B,D,F	
GA	Marcel Invoices to Various Vendors between 4/18/1987 and 7/30/1997	M01472 - 01862	B,D	
GB	Marcel Invoices to Various Vendors between 8/1/1997 and 10/23/2001	M02016 - 02378	B,D	
GC	Marcel Invoices for Bealls Department Stores between 10/23/2001 and 3/29/2002	M00696 - M00698	B,D	
GD	EXHIBIT WITHDRAWN			
GE	EXHIBIT WITHDRAWN			
GF	EXHIBIT WITHDRAWN			
GG	EXHIBIT WITHDRAWN			

Ex. #	Description	Bates Range	Objections	Status
GH	Declaration of David Cohen	none	A,B,D	
GI	Correspondence concerning Lucky Brand Infringing Uses of GET LUCKY	LUCKY 14207 - 14230	*, H, All exhibits marked in deposition not attached, Plaintiffs reserve right to attach them.	
GJ	Email from Olis to various recipients dated 2/20/2007, attaching CAD for Lucky Brand t-shirt	LUCKY 14113- 14114	**	
GK	Defendant's Second Notice of Deposition Under Rule 30(B)(6)	none	B,J	
GL	Email from Pasquale to Munoz, Morrison, Catlin, Olis, Garner, and Park, dated 9/20/2007, forwarding email chain.	LUCKY 14133 - 14135	**	
GM	Email from Olis to Greeley, Shimomura, Altman, Husar, Brown, Stahl, "Lisa," and "Katie," dated 9/28/2007.	LUCKY 14142	**	
GN	Email from Morrison to Pasquale, Catlin, and Olis, cc Munoz, dated 9/20/07.	LUCKY 14116 - 14118	**	
GO	Marcel's Second Request for Production of Documents and Things to Plaintiffs	none	J	
GP	Printout showing shipments of style #7794 Lucky Brand t-shirt	LUCKY 14100 - 14102	**	
GQ	Email from Pecorin to Bryant dated 10/3/2007, forwarding email chain and attaching Request for Return forms	LUCKY 14187 - 14200	**	

Ex #	Description	Bates Range	Objections	Status
GR	Email from Shimomura to Olis, dated 10/17/2007, forwarding email and attaching Return Authorization	LUCKY 14215 - 14216	**	
GS	Email from Morrison to various recipients, dated 10/17/2007, with list of prohibited "LUCKY" uses	LUCKY 14110	**	
GT	Email from Pasquale to Morrison dated 10/11/2007	LUCKY 14099	**	
GU	Email from Aparicio to Olis, Pasquale, Taino, and Recinos, dated 9/20/2007, forwarding email and attaching list of shipments of Lucky Brand t-shirt	LUCKY 14124 - 14127	**	
GV	Email from Olis to Pasquale, dated 9/20/2007	LUCKY 14119	**	
GW	Email from Langner to various recipients, dated 4/13/07 attaching chart of Lucky Brand Men's Domestic t-shirts	LUCKY 14103 - 14109	**	
GX	Email from Olis to various recipients, dated 2/20/2007, attaching injections chart	LUCKY 14111 - 14112	**	
GY	Email from Olis to Pasquale, dated 9/20/2007, with email chain	LUCKY 14122 - 14123	**	
GZ	Email from Olis to Shimomura, dated 9/20/2007, with email chain	LUCKY 14129	**	
HA	Email from Pasquale to Olis, cc Catlin, dated 9/26/2007	LUCKY 14141	**	
HB	Email from Olis to Shimomura, dated 9/28/2007, with email chain	LUCKY 14144	**	
HC	Email from Pasquale to various recipients, dated 10/1/2007, with email chain	LUCKY 14151	**	

Ex. #	Description	Bates Range	Objections	Status
HD	Email from Bolno to various recipients, dated 10/2/2007, with email chain	LUCKY 14152	**	
HE	Email from Loehrlein to various recipients, dated 10/2/2007, with email chain	LUCKY 14175 - 14179	**	
HF	Marcel's Second Set of Interrogatories to Plaintiffs	none	B,C,J	
HG	Lucky Brand t-shirt with "Get Lucky Now" and "American MFG Co." (physical evidence)	none	Color copy not legible	
HH	Marcel's First Request for Production of Documents and Things to Plaintiffs	none	B,C,J	
HI	Plaintiffs' Responses and Objections to Defendants' First Request for Production of Documents and Things	none	B,J	
HJ	Marcel's First Set of Interrogatories to Plaintiffs	none	B,J	
HK	Plaintiffs' Responses and Objections to Defendants' Second Request for Production of Documents and Things to Plaintiffs	none	B,J	
HL	Marcel's Second Set of Interrogatories to Plaintiffs	none	B,J	
HM	Plaintiffs' Responses and Objections to Defendants' Second Set of Interrogatories	none	B,J	
HN	Plaintiffs' Responses and Objections to Defendants' Second Notice of Deposition Under Rule 30(B)(6)	none	B,J	
HO	Document production included in Exhibit 1 to Bolmarcich deposition	LUCKY 14099 - 14377	A,B,C	

Ex. #	Description	Bates Range	Objections	Status
HP	Lucky Brand design images with "Get Lucky"	LUCKY 009085 - 009092, 003092	*,B	
HQ	Letter from Lawrence Fox to John Triggs, dated 12/7/2007	none	A,B,J	
HR	Declaration of Lawrence I. Fox in Support of Defendants Marcel Fashion Group, Inc. and Ezra Mizrahi's Rule 37 Motion for Sanctions Against Lucky Brand Dungarees, Inc. and Liz Claiborne, Inc.	none	A,B,J	
HS	Letter from Lawrence Fox to John Triggs and Sophia Tsokos, dated 1/24/2007, enclosing attaching advertisements from Stuff and Lucky magazines	none	A,B,J	
HT	Letter from Lawrence Fox to John Triggs and Sophia Tsokos, dated 9/19/2007	none	A,B,J	
HU	Email from Pecorin to Bryant, dated 10/3/2007, with email chain and attaching Request for Return form	LUCKY 14187 - 14216	**	
HV	Letter from Lawrence Fox to Judge Laura Taylor Swain dated 10/1/2007	none	A,B,J	
HW	Endorsed order from Judge Laura Taylor Swain dated 10/3/2007	none	A,B,C,J	
HX	Letter from John Triggs to Magistrate Judge Michael H. Dolinger, dated 11/8/2007	none	A,B,C,J	
HY	Letter from John Triggs to Lawrence Fox dated 1/3/2008	none	A,B,C,J	
HZ	Email from Morrison to various recipients, dated 10/10/2007 with list of prohibited uses of "Lucky"	LUCKY 14110	**	

Ex. #	Description	Bates Range	Objections	Status
IA	Lucky Brand Group Sheet	LUCKY 014364	**	
IB	Email from Keith Stolte to John Triggs and Sophia Tsokos, dated 10/20/2007, with email chain	none	B,C,J	
IC	Order of Magistrate Judge Michael H. Dolinger, dated 12/5/2007 (Dkt. No. 151)		B,C,J	
ID	Declaration of Gene Bolmarcich, pursuant to order of Magistrate Judge Dolinger	none	B,C	
IE	Declaration of April Tabor in Support of Defendants Marcel Fashion Group Inc. and Ezra Mizrachi's Rule 37 Motion for Sanctions Against Lucky Brand Dungarees, Inc. and Liz Claiborne, Inc.	none	A,B,C	
IF	Color images of Lucky Brand logos with "Get Lucky"	LUCKY 14393	* ,B	
IG	Letter from April Tabor to Sophia Tsokos, dated 12/20/2007, attaching list of documents to be copied from Lucky Brand binders	none	A,B,C,J	
IH	Color images of Lucky Brand logos with "Get Lucky"	LUCKY 14392	**	
II	Color images of Lucky Brand shirt designs with "Get Lucky"	LUCKY 14391	* ,B	
IJ	Color image of Lucky Brand design with "Get Lucky Now"	LUCKY 14400	* ,B	
IK	Color image of Lucky Brand t-shirt design with "Get Lucky Now"	LUCKY 14399	* ,B	
IL	Color image of Lucky Brand design with "Get Lucky Now"	LUCKY 14405	* ,B	

Ex. #	Description	Bates Range	Objections	Status
IM	Color image of Lucky Brand design with "Get Lucky Now"	LUCKY 14412	**	
IN	Declaration of Bridget Wirtz	none	B,C	
IO	Declaration of Jim Mudgett	none	B,C	
IP	Declaration of Heather Green	none	B,C	
IQ	Photographs of Lucky Brand Buddha statue	none	* ,B	
IR	Declaration of Lisa Loehrlein	none	B,C	
IS	Color screen shot of Lucky Brand design database	none	* ,B,C	
IT	Invoice and certification of destruction from Document Disintegration, Inc.	none	* ,B,C	
IU	Declaration of Thomas Garner	none	B,C	
IV	Color thumbnails of Lucky Brand designs	none	** ,B	
IW	Color thumbnails of Lucky Brand designs	none	** ,B	
IX	Color thumbnails of Lucky Brand designs	none	** ,B	
IY	Color thumbnails of Lucky Brand designs	none	** ,B	
IZ	Color thumbnails of Lucky Brand designs	none	** ,B	
JA	Color thumbnails of Lucky Brand designs	none	* ,B	
JB	Color thumbnails of Lucky Brand designs	none	* ,B	

Ex #	Description	Bates Range	Objections	Status
JC	Color thumbnails of Lucky Brand designs	none	*,B	
JD	Color thumbnails of Lucky Brand designs	none	*,B	
JE	Color thumbnails of Lucky Brand designs	none	*,B	
JF	Color thumbnails of Lucky Brand designs	none	*,B	
JG	Color thumbnails of Lucky Brand designs	none	*,B	
JH	Color image of Lucky Brand "Lucky Power" Clydesdale horse logo with "Get Lucky"	LUCKY 14381	*,B	
JI	Email from Livoti to Gigliotti, cc Stolper, dated 9/9/2005, with email chain	M05857 - 05858	A,B,I	
JJ	Email from Livoti to Gigliotti, cc "mstolper@orrick.com", dated 9/8/2005	M05859	A,B,I	
JK	Email from Livoti to Gigliotti, cc "phild@apscoenterprises.com" dated 8/3/2005	M05861	A,B,I	
JL	Marcel Fashions Get Lucky t-shirt (physical evidence)	M05862	B,D,I	
JM	Marcel Fashions Get Lucky tank top (physical evidence)	M05863	B,D,I	
JN	Marcel Fashions Get Lucky t-shirt (physical evidence)	M05864	B,D,I	
JO	Marcel Fashions Get Lucky tank top (physical evidence)	M05865	B,D,I	
JP	Marcel Fashions Get Lucky stretch t-shirt (physical evidence)	M05866	B,D,I	
JQ	Marcel Fashions Get Lucky t-shirt (physical evidence)	M05867	B,D,I	

Ex. #	Description	Bates Range	Objections	Status
JR	Marcel Fashions Get Lucky men's t-shirt (physical evidence)	M05868	B,D,I	
JS	Marcel Fashions Get Lucky child's t-shirt (physical evidence)	M05869	B,D,I	
JT	Marcel Fashions Get Lucky child's t-shirt (physical evidence)	M05870	B,D,I	
JU	Marcel Fashions Get Lucky child's t-shirt (physical evidence)	M05871	B,D,I	
JV	Marcel Fashions Get Lucky baby romper (physical evidence)	M05872	B,D,I	
JW	Marcel Fashions Get Lucky black denim jacket (physical evidence)	M05873	B,D,I	
JX	Marcel Fashions Get Lucky denim jacket (physical evidence)	M05874	B,D,I	
JY	Marcel Fashions Get Lucky zip sweatshirt (physical evidence)	M05875	B,D,I	
JZ	Marcel Fashions Get Lucky stretch collared shirt (physical evidence)	M05876	B,D,I	
KA	Marcel Fashions Get Lucky dress (physical evidence)	M05877	B,D,I	
KB	Marcel Fashions Get Lucky jeans with embroidery (physical evidence)	M05878	B,D,I	
KC	Marcel Fashions Get Lucky white jeans (physical evidence)	M05879	B,D,I	
KD	Marcel Fashions Get Lucky tote bag (physical evidence)	M05880	B,D,I	
KE	Get Lucky hang tag (physical evidence)	M05881	B,D,I	
KF	Color photographs of Marcel Fashion Get Lucky booth at 2009 MAGIC show	M05882 - 05888	B,D,I	
KG	Trade show catalogs 2006 (physical evidence)	M05889 - 05893	B,D,I	
KH	Trade show catalogs 2007 (physical evidence)	M05894 - 05906	B,D,I	
KI	Trade show catalogs 2008 (physical evidence)	M05907 - 05918	B,D,I	
KJ	Trade show catalogs 2009 (physical evidence)	M05919 - 05924	B,D,I	
KK	Invoices and cleared checks from trade shows	M05925 - 05949	B,D,I	

Ex. #	Description	Bates Range	Objections	Status
KL	Card Player Magazine and card insert of Michael "The Grinder" Mizrachi (physical evidence)	M05978 - 05979	B,D,I	
KM	Marcel Fashion Group Inc. Get Lucky Commissions Due Summaries	M05980 - 05982	B,D,I	
KN	Legal proceedings updates from Liz Claiborne Inc. Forms 10-K	M05983 - 05995	B,C	
KO	Item 7 Summary from Liz Claiborne Inc. Form 10-K	M05950 - 05977	B,C	
KP	Voluminous set of Marcel checks for payments made to various trade shows from 1985 to 1991 (physical evidence)	M05996	B,D,I	
KQ	Voluminous set of Marcel checks for sales commission payments from 1987 to 1991 (physical evidence)	M05997	B,D,I	
KR	Voluminous set of Marcel ledgers showing customer locations and sales in 1988 and 1989 (physical evidence)	M05998 - 06003	B,D,I	
KS	Voluminous set of Marcel bank statements from 1985 to 1991	M06004	B,D,I	
KT	Marcel receipt for Marcel's permanent Get Lucky showroom in Dallas, TX	M06005	B,D,I	
KU	Lucky Brand Net Sales and Advertising Figures for 2007 and 2008	none	**	
KV	Lucky Brand Gross Sales and Advertising totals for 2007 and 2008	none	**	
KW	Summary chart of Exhibit KP (voluminous set of checks for trade shows)	none	B,D,I	
KX	Summary chart of Exhibit KQ (voluminous set of checks for commissions paid to GET LUCKY sales people)	none	B,D,I	
KY	Summary chart by state/year of Exhibit KR (voluminous set of GET LUCKY sales ledgers)	none	B,D,I	
KY-1	Summary chart of ledger M05998	none	B,D,I	
KY-2	Summary chart of ledger M05999	none	B,D,I	
KY-3	Summary chart of ledger M06000	none	B,D,I	
KY-4	Summary chart of ledger M06001	none	B,D,I	

Ex. #	Description	Bates Range	Objections	Status
KY-5	Summary chart of ledger M06002	none	B,D,I	
KY-6	Summary chart of ledger M06003	none	B,D,I	
KZ	Summary of Exhibit KS (voluminous set of bank statements)	none	B,D,I	
LA	Voluminous set of UPS C.O.D. statements from 1988 - 1991 (physical evidence)	M06006	B,D,I	

e. A list of the depositions, if any, to be offered at trial, with notation and explanation (including citation to the relevant legal authority) of any objections to the designation.

Plaintiffs' Deposition Designations

Deposition	Designated Pages: Lines	Objections
Deposition of Paula Ring Dated March 16, 2007	2:1-12; 7:10-8:9; 8:24-9:23; 10:7-10; 10:15-11:7; 11:13-13:10; 13:14-20; 14:1-27:7; 27:14-34:25; 35:5-37:23; 38:2-40:5; 40:19-22; 41:7-42:1; 42:5-6; 43:5-44:10; 44:17-45:2; 45:15-47:5; 47:11-16; 48:1-49:20; 49:22; 49:25-51:2; 51:12-53:1; 53:12-54:21; 54:25-55:1; 55:8-60:6; 60:23-61:5; 61:17-21; 61:25-63:5; 63:12-68:10; 68:14-72:5; 72:7-72:13; 72:21-73:2; 73:4-75:21; 76:13-19; 76:22-77:18; 78:1-80:18; 80:21-81:1; 83:17-87:15; 90:6-92:2; 92:12-93:20; 94:3-102:2; 102:17-103:11; 106:24-108:1.	Defendants object to these designations as they may only be used if witness is unable to appear at trial.
Deposition of Louis Gigliotti Dated June 27, 2007	3:1-15; 5:1-6; 6:5-6; 6:15-9:7; 10:14-13:16; 14:22-16:18; 17:21-20:15; 20:24-23:2; 23:19-24:2; 24:4-29:5; 34:18-37:15; 37:21-38:9; 38:11-44:23; 45:9-48:15; 48:24-51:7; 51:12-53:14; 53:17-20; 54:1-56:16; 56:19-62:4;	As noted in their Motion In Limine, Defendants object to the Use of Mr. Gigliotti's Deposition Transcript Other than for Impeachment Purposes. Mr. Gigliotti was not an officer of Defendants at the time his deposition was

	62:10-65:19; 65:21-23; 66:1-8; 66:14-20; 67:11-21; 70:17-72:8; 72:18-73:21; 74:3-74:19; 74:21-25; 75:7-89:7; 90:15-91:19; 92:13-103:18; 103:21-108:13; 108:15-128:23; 129:3-19; 130:17-131:8; 132:9-133:22; 134:7-142:18; 148:8-23; 144:1-145:24; 146:1-151:25; 152:10-153:10; 153:13-18; 154:6-156:23; 159:20-161:19; 163:4-167:5; 167:19-170:5; 174:13-177:16; 180:1-185:16; 185:19-193:17; 194:18-212:23; 213:4-213:25; 214:16-250:21; 252:9-254:8.	taken, and his statements may not be used as a party admission under FRCP 32(a)(2). In addition, Defendants plan to call Mr. Gigliotti at trial, and therefore there is no reason to admit his deposition transcript.
Deposition of Ezra Mizrachi Dated June 26, 2007	3:1-17; 5:1-6; 5:25-7:12; 11:3-7; 11:13-12:2; 12:5-12:9; 12:13-26:13; 26:23-32:25; 33:5-12; 33:14-16; 34:10-35:22; 35:24-37:22; 37:24-38:4; 38:6-9; 38:11-40:23; 40:25-41:18; 41:20-42:12; 42:18-43:4; 43:6-44:2; 44:5-7; 44:14-17; 44:19-46:12; 46:20-49:12; 49:17-50:17; 50:19-51:11; 51:13-55:6; 55:8-56:4; 56:8-56:25; 57:4-58:8; 58:10-59:25; 60:13-17; 60:20-61:3; 61:5-7; 62:18-65:23; 65:25-68:25; 70:1-5; 70:7-71:16; 71:18-72:2; 72:10-73:4; 73:6-73:22; 73:24-75:15; 75:25-76:6; 76:15-78:11; 78:13-79:24; 80:15-80:20; 81:5-9; 81:14-23; 82:18-21; 82:24-84:24; 85:8-86:4; 86:6-17; 86:20-88:15; 88:17-99:1; 99:14-100:8; 100:10-102:4; 102:6-106:9; 106:18-107:7; 107:10-108:14; 108:22-111:7; 111:11-114:5; 114:8-119:8; 119:10-120:10; 121:20-122:11; 122:19-123:4;	Defendants object to these designations as they may only be used if witness is unable to appear at trial.

	123:21-125:10; 125:19-126:6; 126:13-127:4; 127:9-128:12; 128:14-132:14; 132:21- 143:16; 134:20-143:20; 144:1-145:13; 146:12-149:8; 149:13-150:15; 151:9-23; 152:14-153:23; 153:25-160:8; 160:24-162:21; 162:24-164:4; 164:6-20; 164:25-166:19; 167:9-168:15; 168:22-170:2; 170:10-171:4; 171:15-172:10; 172:25-173:23; 174:3-180:20; 180:23-182:15; 183:8-14; 183:20-186:15; 186:17- 190:25; 192:12-20; 192:25- 195:12; 195:19-196:8; 196:21-200:14; 200:24-201:4; 201:17-204:3; 204:6-206:23; 207:16-18; 207:23-208:17; 208:21-209:25; 210:13- 211:24; 212:3-216:24; 218:3- 233:12; 234:20-239:23; 240:15-242:2; 243:6-244:22; 245:17-245:25; 246:3- 247:15-248:11; 248:20-249:5.	
Deposition of Kevin J. Enders Dated June 13, 2007	2:1-10; 4:1-6; 4:17-21; 20:22- 21:12; 23:6-24:13; 24:15-18; 24:20-25:14; 25:16; 26:6-10; 26:17-27:19; 27:21-28:3; 28:16-18; 28:20; 29:3-4; 29:6-9; 29:17-31:19; 31:21- 23; 32:8-11; 32:20-33:5; 33:7-16; 34:15-35:11; 35:13- 36:13; 36:20-38:12; 38:25- 39:10; 39:13-40:9; 40:11-23; 41:2-42:7; 42:10-43:12; 43:14-16; 44:7-9; 44:12-21; 45:8-13; 45:22-46:9; 46:11- 49:4; 50:5-6; 50:8-20; 51:2- 17; 53:8-55:24; 56:5-9; 56:20-57:13; 57:17-58:12; 58:14-61:6; 61:12-62:11; 62:13-14; 64:7-22; 67:17- 68:10; 68:25-69:22; 70:18- 71:2; 71:8-20; 72:7-74:5; 74:10-75:19; 75:21-76:2;	As noted in their Motion in Limine, Defendants object to the Use of Mr. Enders' Deposition Transcript Other than for Impeachment Purposes. Mr. Enders was not an officer of Defendants at the time his deposition was taken, and his statements may not be used as a party admission under FRCP 32(a)(2). In addition, Defendants plan to call Mr. Enders at trial, and therefore there is no reason to admit his deposition transcript.

	76:6-13; 77:14-79:13; 79:17- 81:12; 81:17-21; 82:6-85:6; 85:10-86:9; 86:11-91:20; 91:22-23; 92:8-96:21; 96:23- 98:12; 98:16-101:9; 101:12- 104:4; 104:8-105:5; 105:9- 108:4; 108:6-14; 108:19- 109:2; 109:6-111:16; 112:15- 21; 113:7-115:16; 115:18- 116:2; 116:8-117:3; 117:21- 121:17; 122:3-126:5; 126:7- 128:4; 128:15-18; 128:21-24; 129:19-20; 129:23-130:9; 130:11-132:14; 132:16-21; 132:23-133:14; 133:24- 134:13; 134:15-135:11; 135:14-137:6; 137:8-13; 137:17-138:22; 139:6-143:5; 143:7-22; 143:24-144:15; 144:17-145:10; 145:13-146:3; 146:5-17; 146:19-147:4; 147:16-19; 147:21; 147:24- 148:7; 148:9-13; 148:16-20; 148:22-23; 149:13-151:4; 151:6-7; 151:9-11; 151:16- 153:14; 153:24-155:11; 156:5-157:12; 157:14-159:7; 159:9-160:3; 160:9-19; 160:21-163:6; 163:17-22; 165:5-166:7; 166:12-168:5; 168:18-22; 169:3-170:6; 170:19-171:2; 171:4-173:14; 173:16-17; 174:17-180:8; 180:23-25; 181:3-14; 181:16- 182:13; 182:24-184:7; 184:23-185:16; 185:19-186:4; 186:7-188:3; 188:12-24; 189:2-21; 190:22-191:21; 192:11-22; 194:6-195:2; 195:6-25; 196:5-197:5; 197:12-202:11; 202:17-24; 203:4-205:7; 205:10-25; 206:10-16; 206:19-209:12; 209:18-210:25; 211:3-25; 212:15-213:12; 213:14-16; 213:19-218:3; 218:10-219:11;
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	219:17-221:10; 221:12-228:13; 228:15-229:11; 229:15-19; 229:21-24; 230:1-233:7; 233:12-19; 233:22-25.	
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Defendants' Deposition Designations

Deposition	Designated Pages: Lines	Objections
Deposition of Barry Perlman Dated July 10, 2007	4:7-4:11; 7:24-8:14; 9:7-25:10; 25:17-47:6; 47:15-61:9; 62:2-91:4; 92:11-114:7; 15:8-174:14.	
Deposition of Paula Ring Dated March 16, 2007 (Only if unavailable to testify at trial)	Entire Deposition Transcript (If witness is unable to appear at trial, the parties will attempt to narrow these designations.)	
Counter-Designation of the Deposition of Ezra Mizrachi Dated June 26, 2007	33:13-34:10; 37:23-38:11; 39:5-43:17; 44:14-56:25; 58:10-61:17; 61:8-62:7; 66:4-68:5; 69:2-25; 73:13-74:22; 77:7-80:23; 93:11-94:17; 105:13-106:10; 108:17-110:22; 111:2-112:25; 125:6-18; 126:7-129:2; 138:3-139:17; 149:13-160:21; 184:9-194:14; 202:14-203:24; 208:13-214:13; 220:5-226:6; 226:8-232:23; 234:20-237:7; 245:7-248:19.	
Deposition of Tony Pasquale Dated November 2, 2007	Entire Deposition Transcript (If witness is unable to appear at trial, the parties will attempt to narrow these designations.)	
Deposition of Gene Bolmarcich Dated December 17, 2007	Entire Deposition Transcript (If this witness is unable to appear at trial, the parties will attempt to narrow these designations.)	

f. Stipulations, if any, as to the admissibility of exhibits and depositions.

If Paula Ring is not available to testify at trial, Defendants stipulate to the use of her deposition.

**g. Each party's statement as to whether the case is to be tried before a jury.**

Plaintiffs' Statement:

This case is to be tried with a jury.

Defendants' Statement:

Defendants' case is to be tried before a jury.

**h. A statement as to whether or not all parties consent to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).**

The parties do not consent to a trial of this matter by magistrate.

**i. Each party's estimate of the time required for the presentation of its case.**

Plaintiffs' Statement:

Plaintiffs anticipate that 2 trial days will be required for the presentation of their case.

Defendants' Statement:

Defendants anticipate that 5 trial days will be required for the presentation of their case.

DATED: May 11, 2009

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